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Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

OCT 15 1998

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In re Applications of)	MM DOCKET NO. 92-6
)	
NORMANDY BROADCASTING)	File No. BRH-910129UR
CORP.)	
)	
For Renewal of License for)	
Station WCQL(FM) (95.9 MHz) ¹)	
Glens Falls, New York)	
)	
LAWRENCE N. BRANDT)	File No. BPH-910430MB
)	
For a Construction Permit for a new)	
FM Station on 95.9 MHz at)	
Glens Falls, New York)	

To: The Commission

MASS MEDIA BUREAU'S COMMENTS ON
AMENDMENT TO JOINT REQUEST FOR APPROVAL OF AGREEMENT

1. On September 29, 1998, Normandy Broadcasting Corp. ("Normandy"), Lawrence N. Brandt ("Brandt") and Entertronics, Inc. ("Entertronics") filed a second amendment to a pending joint request for approval of agreement. The Mass Media Bureau hereby submits the following comments.

2. This case is now before the Commission on exceptions to the presiding Administrative Law Judge's *Initial Decision*, 8 FCC Rcd 1 (1992) ("ID"). See *Order*, 11 FCC Rcd 5251 (Rev. Bd. 1996); and *Memorandum Opinion and Order*, 11 FCC Rcd 3559 (Rev. Bd. 1996). The three issues pending for consideration involve: 1) the impact upon Normandy of findings and conclusions concerning Normandy reached in *Barry Skidelsky*, 6

¹ Effective November 21, 1997, the call sign of the station changed from WYLR(FM) to WCQL(FM).

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FCC Rcd 2221 (ALJ 1991); 2) the standard comparative issue; 3) the standard conclusory issue. *ID.* 8 FCC Rcd at 1. On January 30, 1998, the parties submitted a settlement agreement which contemplated dismissal of Brandt's application, grant of Normandy's application, and the assignment of Normandy's WCQL(FM) and co-located WWSC(AM) to Entertronics. The Bureau's position, as previously stated in pleadings filed on February 12, 1998 and June 17, 1998, is that Normandy is basically qualified to retain its license; that Entertronics is basically qualified; and that approval of the settlement agreement as initially structured is consistent with the public interest.

3. In order to expedite approval of their agreements, the parties have restructured them. The modified settlement agreement proposes dismissal of Normandy's pending renewal application and grant of Brandt's mutually exclusive construction permit application, with Entertronics substituted as the applicant. In consideration for the substitution, Brandt will receive \$137,500 from Entertronics. In a related agreement involving the assignment of the license and assets of WWSC(AM) and the sale of the physical assets of WCQL(FM), Entertronics will pay Normandy \$300,000 and \$50,000 worth of trade over a five year period. Payments will occur only after the Commission dismisses Normandy's application, grants Brandt's application with Entertronics as the applicant, and grants the application to assign the license of Station WWSC(AM) from Normandy to Entertronics. In this regard, the parties request that the Commission's order dismissing Normandy's application and granting Brandt's application occur simultaneously. Further, the parties request that the termination of Normandy's hearing rights not occur until the parties inform the Commission that the closing of the WWSC assignment is consummated.

4. Section 311(d) provides that Commission approval must precede any effectuation of an agreement between a broadcast renewal applicant and a mutually exclusive construction permit applicant, which agreement provides for the withdrawal of either application in exchange for the payment of money. Before the Commission can approve such an agreement, it must determine that the agreement is consistent with the public interest and that no party to the agreement filed its application for the purpose of reaching a settlement agreement.² Here, Brandt and Normandy have verified that neither filed its application for the purpose of reaching a settlement. Further, grant of the joint request, as amended, will serve the public interest by terminating this proceeding and placing the licenses of both WCQL(FM) and WWSC(AM) with Entertronics, an entity which the Bureau has already determined is fully qualified.³ Moreover, the instant amendment to the settlement agreement will render moot Brandt's pending motion to enlarge the issues against Normandy. Finally, with respect to the parties' request, the Bureau interposes no objection to Normandy retaining its hearing rights until the parties report that consummation of the WWSC(AM) assignment has occurred.

5. Accordingly, the Bureau supports the joint request as amended, dismissal of

² Section 73.3523 of the Commission's Rules pertains to the dismissal of the competing applicant, not the renewal applicant.

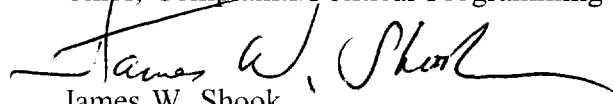
³ There is also no question about Brandt's qualifications.

Normandy's application, grant of Brandt's application, as amended, and termination of this proceeding.

Respectfully submitted,
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October 15, 1998

CERTIFICATE OF SERVICE

Talya Lewis, a secretary in the Complaints/Political Programming Branch, Mass Media Bureau, certifies that she has on this 15th day of October, 1998, sent by first class United States mail. copies of the foregoing "Mass Media Bureau's Comments on Amendment to Joint Request for Approval of Agreement" to:

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